

Message Text

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TO AMEMBASSY SINGAPORE

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E.O. 11652: N/A

TAGS: ETRD

SUBJECT: GSP IMPLEMENTATION; "SUBSTANTIALLY TRANSFORMED"

REF: SINGAPORE 00958

1. THE U.S. CUSTOMS SERVICE HAS ISSUED A RULING
(TD 76-100) INTERPRETING THE TERM "SUBSTANTIALLY
TRANSFORMED," AS USED IN CFR PART 10, PARA. 10.177 (A)
(2), REGARDING GSP ELIGIBILITY FOR ARTICLES IMPORTED
INTO THE U.S. FROM BENEFICIARY DEVELOPING COUNTRIES.
FULL TEXT SEPTEL.

2. SECTION 10.177 OF THE CUSTOMS REGULATIONS DEFINES
THE WORDS "PRODUCED IN THE BENEFICIARY DEVELOPING
COUNTRY" AS USED IN SECTION 503 OF THE TRADE ACT OF
1974. THE REGULATION PROVIDES THAT THE COST OR VALUE
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OF THOSE CONSTITUENT MATERIALS WHICH HAVE BEEN

SUBSTANTIALLY TRANSFORMED INTO A NEW AND DIFFERENT ARTICLE OF COMMERCE IN THE BENEFICIARY DEVELOPING COUNTRY SHALL BE INCLUDED IN THE COMPUTATION OF THE 35 PERCENT CRITERION FOR GSP.

3. ACCORDING TO THE CUSTOMS RULING, IT APPEARS THAT THE

PROCESSING OF LOGS INTO VENEER, SEEDS INTO OLEORESINS, AND PEPPER GRINDING WOULD ALL CONSTITUTE SUBSTANTIAL TRANSFORMATION OF CONSTITUENT MATERIALS INTO NEW AND DIFFERENT ARTICLES OF COMMERCE. THE VALUE OF THESE TRANSFORMED MATERIALS WOULD THEN BE COUNTED TOWARD THE 35 PERCENT ELIGIBILITY CRITERION, PROVIDED THAT THE ELIGIBLE ARTICLE PRODUCED THEREFROM IS IMPORTED DIRECTLY INTO THE U.S. FROM THE BENEFICIARY DEVELOPING COUNTRY.

4. IT IS NOT POSSIBLE TO DETERMINE AT THIS TIME WHETHER THE USE OF IMPORTED CASTINGS IN MACHINE MANUFACTURE WOULD QUALIFY AS SUBSTANTIAL TRANSFORMATION OF CONSTITUENT MATERIALS. FURTHER INFORMATION CONCERNING THE ASSEMBLY PROCESS IS NECESSARY BEFORE A DETERMINATION OF SUBSTANTIAL TRANSFORMATION CAN BE MADE.

5. THE ASSEMBLY OF PREFABRICATED ELECTRONIC PARTS IN DESK CALCULATORS PROBABLY WOULD NOT COUNT TOWARD THE 35 PERCENT CRITERION, SINCE MOST ASSEMBLY OPERATIONS AND OPERATIONS INCIDENTAL TO ASSEMBLY WILL NOT QUALIFY.

6. THE CUSTOMS RULING STATES THAT QUOTE GENERALLY GOODS THAT ARE UNDEFINED IN FINAL DIMENSIONS AND SHAPES ARE CONSIDERED MATERIALS, WHILE GOODS THAT HAVE BEEN PROCESSED INTO A COMPLETED DEVICE OR CONTRIVANCE READY FOR ULTIMATE USE ARE NOT CONSIDERED MATERIALS UNQUOTE FOR THE PURPOSES OF SUBSTANTIAL TRANSFORMATION. MATERIALS THEN PROCESSED INTO CERTAIN ARTICLES MAY BE CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS OF AN ELIGIBLE ARTICLE.

7. HOWEVER, THE RULING STATES THAT QUOTE ARTICLES PRODUCED BY THE JOINING AND FITTING TOGETHER OF UNCLASSIFIED

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COMPONENTS ARE NOT CONSIDERED SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS UNQUOTE. CONSEQUENTLY, RAW SKINS IMPORTED INTO A BENEFICIARY DEVELOPING COUNTRY AND TANNED INTO LEATHER WOULD REPRESENT A SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIAL WHEN USED IN THE SUBSEQUENT MANUFACTURE OF A LEATHER COAT. HOWEVER, PARTIALLY COMPLETED COMPONENTS WHICH ARE COMPLETED AND ASSEMBLED IN THE BENEFICIARY DEVELOPING COUNTRY

INTO FINISHED ARTICLES OR COMPONENTS DO NOT QUALIFY
AS SUBSTANTIALLY TRANSFORMED CONSTITUENT MATERIALS.

8. THE EXAMPLES PRESENTED HERE ARE ILLUSTRATIVE ONLY.
MORE SPECIFIC INTERPRETATIONS OF THE TERM "MATERIALS"
REGARDING SUBSTANTIAL TRANSFORMATION AND OF AN ARTICLE'S
QUALIFICATIONS UNDER THE 35 PERCENT CRITERION SHOULD

BE REQUESTED BY INTERESTED PARTIES IN ACCORDANCE WITH
PART 177 OF THE CUSTOMS REGULATIONS (19 CFR PART 177).
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